

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

NORMAN KEITH FLOWERS,

Petitioner,

vs.

STATE OF NEVADA,

Respondent.

Case No. 2:16-cv-01304-APG-GWF

**ORDER**

Petitioner has filed a petition for a writ of habeas corpus (ECF No. 9), around six months after he commenced this action. Currently before the court are that petition, an application to proceed in forma pauperis (ECF No. 1), a motion for appointment of counsel (ECF No. 2), and a request for an evidentiary hearing (ECF No. 3).<sup>1</sup>

Petitioner is unable to pay the filing fee. The court has reviewed the petition. Petitioner is unable to afford counsel, and the issues presented warrant the appointment of counsel. See 18 U.S.C. § 3006A(a)(2)(B). The appointment of counsel makes petitioner's request for an evidentiary hearing moot. Counsel will have the opportunity to file an amended petition, and counsel may renew the request if it is thought to be necessary.

IT IS THEREFORE ORDERED that the application to proceed in forma pauperis (ECF No. 1) is **GRANTED**. Petitioner need not pay the filing fee of five dollars (\$5.00).

IT IS FURTHER ORDERED that petitioner's motion for appointment of counsel (ECF No. 2) is **GRANTED**. The Federal Public Defender is provisionally appointed to represent petitioner.

IT IS FURTHER ORDERED that the Federal Public Defender shall have thirty (30) days from the date that this order is entered to undertake direct representation of petitioner or to indicate to the court his inability to represent petitioner in these proceedings. If the Federal Public Defender does undertake representation of petitioner, he shall then have sixty (60) days to file an amended

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<sup>1</sup>The motion for appointment of counsel and the request for an evidentiary hearing actually are the same document.

1 petition for a writ of habeas corpus. If the Federal Public Defender is unable to represent petitioner,  
2 then the court shall appoint alternate counsel.

3 IT IS FURTHER ORDERED that neither the foregoing deadline nor any extension thereof  
4 signifies or will signify any implied finding of a basis for tolling during the time period established.  
5 Petitioner at all times remains responsible for calculating the running of the federal limitation  
6 period under 28 U.S.C. § 2244(d)(1) and timely asserting claims.

7 IT IS FURTHER ORDERED that the clerk shall add Adam Paul Laxalt, Attorney General  
8 for the State of Nevada, as counsel for respondents.


9 IT IS FURTHER ORDERED that the clerk shall electronically serve both the Attorney  
10 General of the State of Nevada and the Federal Public Defender a copy of the petition (ECF No. 9)  
11 and a copy of this order.

12 IT IS FURTHER ORDERED that respondents' counsel shall enter a notice of appearance  
13 within twenty (20) days of entry of this order, but no further response shall be required from  
14 respondents until further order of the court.

15 IT IS FURTHER ORDERED that any exhibits filed by the parties shall be filed with a  
16 separate index of exhibits identifying the exhibits by number or letter. The CM/ECF attachments  
17 that are filed further shall be identified by the number or numbers (or letter or letters) of the exhibits  
18 in the attachment. The hard copy of any additional state court record exhibits shall be  
19 forwarded—for this case—to the staff attorneys in Las Vegas.

20 IT IS FURTHER ORDERED that petitioner's request for an evidentiary hearing (ECF No.  
21 3) is **DENIED** as moot.

22 DATED: December 16, 2016.

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25 ANDREW P. GORDON  
26 United States District Judge  
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